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In re Application of

Kim, et al.

Application No.: 10/791,334

Filed: March 1, 2004

Attorney Docket No. 4551P025

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OFFICE OF PETITIONS

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This is in response to the petition under 37 CFR 1.137(b) filed April 20, 2006.

The petition under 37 CFR 1.137(b) is granted.

A "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office on May 26, 2004, allowing a shortened period of reply of two-months from its mailing date. Extensions of time set for reply were available pursuant to 37 CFR 1.136(a). The Notice required an oath or declaration to be filed and \$130.00 surcharge for the late filing of the same, and replacement drawings. A response was filed on October 4, 2004, but did not include replacement drawings. A Notice of Incomplete Reply was mailed on October 18, 2004, with period for response remaining as set forth in the Notice to File Missing Parts of Nonprovisional Application. No further responses were received within the allowable period and the application became abandoned on November 27, 2004. A Notice of Abandonment was mailed on March 27, 2006.

The replacement drawings filed April 20, 2006, are noted.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

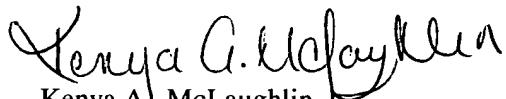
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. Accordingly, the request to change the correspondence address of record, filed April 20, 2006, will not be entered at this juncture. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

This application is being directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.



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cc:

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